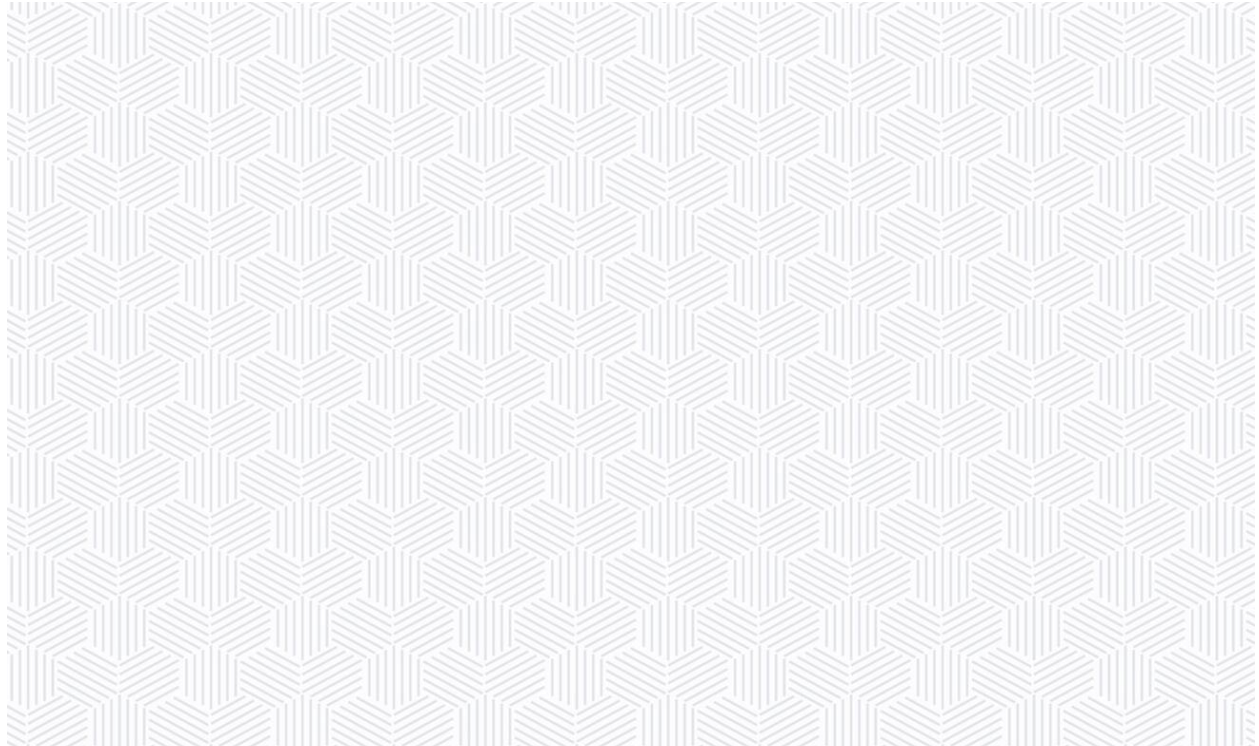


6412 DAMASCUS ROAD LANDSCAPE CONTRACTOR CONDITIONAL USE NO. CU202410



Description:

The Applicant requests a Conditional Use for a Landscape Contractor under the business name American Lawn and Landscaping, Inc. for a property on Damascus Road in Gaithersburg.

No. CU202410

Completed: 2-16-2024

MCPB

Item No. 10

February 29, 2024

2425 Reddie Drive

Floor 14

Wheaton, MD 20902

Planning Staff



Mark Beall, Zoning Planner, Upcounty Planning, Mark.Beall@montgomeryplanning.org, 301-495-1330

Patrick Butler, Chief, Upcounty Planning, Patrick.butler@montgomeryplanning.org, 301-495-4561

LOCATION/ADDRESS

6412 Damascus Road, Gaithersburg 20852

MASTER PLAN

2005 Olney Master Plan

ZONE

AR- Agricultural Reserve

PROPERTY SIZE

4.62 Acres

APPLICANT

Jeffrey K. Juneau

ACCEPTANCE DATE

November 1, 2023

REVIEW BASIS

Chapter 59 and Chapter 22A

HEARING EXAMINER PUBLIC HEARING

March 18, 2024

Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner.
- The Subject Site has an existing single-family house to remain a residence.
- The Proposal would allow a Conditional Use for a Landscape Contractor with buildings and associated parking
- The Landscape Contractor use exists onsite currently and has for over 25 years.
- Staff has not received any public correspondence as of the date of this Staff Report.

TABLE OF CONTENTS

SECTION 1: RECOMMENDATIONS AND CONDITIONS	3
CONDITIONAL USE NO. CU202410	3
SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION	4
VICINITY/NEIGHBORHOOD	4
PROPERTY DESCRIPTION.....	5
SECTION 3: PROJECT DESCRIPTION.....	6
PROPOSAL.....	6
SECTION 4: COMMUNITY CORRESPONDENCE	8
SECTION 5: ANALYSIS AND FINDINGS.....	9
CONDITIONAL USE NO. CU202410	9
FOREST CONSERVATION EXEMPTION	23
SECTION 6: CONCLUSION	24
ATTACHMENTS	24

SECTION 1: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO. CU202410

Staff recommends approval of American Lawn and Landscaping, Conditional Use No. CU202410, for a Landscape Contractor, subject to the following conditions:

1. The use is limited to a Landscape Contractor with two outbuildings/garages , parking on-site and single-family house to remain for residential purposes.
2. The employees will be required to have access to a bathroom in the house when onsite.
3. The Landscape Contractor must not have more than 24 employees on site per day.
4. The Applicant will utilize the following 12 total work vehicles onsite at any given time.
 - a. The Landscape Contractor must not have more than seven (7) stake body trucks.
 - b. The Landscape Contractor must not have more than four (4) pick-up trucks.
 - c. The Landscape Contractor must not have more than one (1) passenger van.
5. Hours of operation must be limited to 6:45 a.m. through 5:00 p.m., Monday through Friday. No operations will occur outside of normal weekday hours of operation or on weekends unless for an emergency such as storms or other similar events. The Applicant shall keep a log of emergency events..
6. The public will not visit the Property.

SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION

VICINITY/NEIGHBORHOOD

The Subject Property outlined in Figure 1 in the red dashed line is located at 6412 Damascus Road, Gaithersburg 20852. The Property is located in the 2005 *Olney Master Plan*.

As delineated in a solid yellow line in Figure 1, Staff defined a neighborhood for purposes of analyzing this Conditional Use and its possible impacts on the character of the surrounding area. Staff determined the neighborhood based on properties that would be most impacted by the proposed Conditional Use.

The surrounding neighborhood is zoned AR. The surrounding properties consist of single-family dwelling units as well as agricultural uses. There are no existing Special Exceptions or Conditional Uses within the Staff defined neighborhood, however there is one Home Occupation for a Landscape Contractor use.

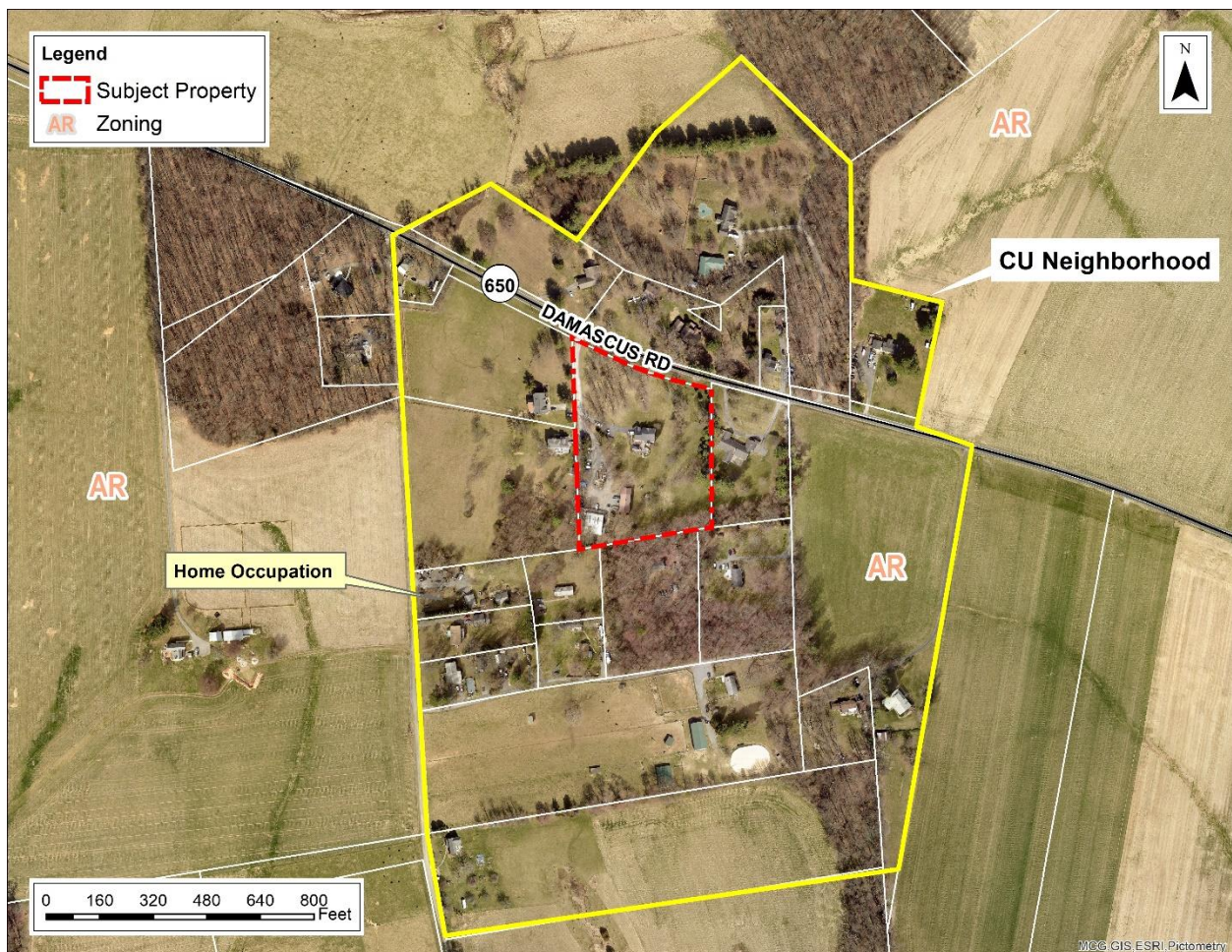


Figure 1: Vicinity Map with Staff-defined neighborhood highlighted in solid yellow

PROPERTY DESCRIPTION

The Subject Property (outlined in red, dashed line) consists of 4.62 acres identified as Lot 2, Block A on Plat No. 19212. The Property will have access from the existing driveway for 6412 Damascus Road. The Property is zoned AR and is located on the south side of Damascus Road approximately 0.5 miles east of the intersection of Hipsley Mill Road and Damascus Road.

The Property has an existing single-family detached house positioned towards the front of the Property that will remain a residence. The Property is currently accessed from an existing driveway entrance on Damascus Road. The driveway is on the Subject Property and is shared with two other neighbors. There are two existing outbuildings/garages onsite that will be a part of the proposed Landscape Contractor. The rest of the Site behind the house is a cleared open area for the existing Landscape Contractor business consisting of a parking area for employees, parking for trucks and equipment and a storage bin for wood chips.



Figure 2 – Subject Property

The Site does not contain streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, hydraulically-adjacent steep slopes, or known occurrences of Rare, Threatened and Endangered species. The Site drains to the Upper Haulings River watershed, classified by the State as Use Class IV-P waters. The Site is not within a Special Protection Area.

Background

The Applicant purchased the Property in December of 1996 and has lived in the single-family dwelling unit and operated the Landscape Contractor business at this location since that time. The Applicant was unaware for the need of a Conditional Use for the Landscape Contractor use but has now been directed by the Department of Permitting Services (DPS) to file for and obtain a Conditional Use for a Landscape Contractor in order to continue operations.

SECTION 3: PROJECT DESCRIPTION

PROPOSAL

The Applicant proposes to use the rear portion of the Property for a Landscape Contractor business. The existing house will remain a residence and will not be used as an office for the Landscape Contractor; however, a restroom within the house will be available for the employees to use. The Applicant has an existing office area in one of the detached outbuildings. The Applicant will utilize the existing gravel parking area for the employees, equipment, and trucks for the Landscape Contractor. The Applicant will utilize twelve (12) vehicles including seven (7) stake body trucks, four (4) pick-up trucks and one passenger van. The Applicant will have no more than 24 employees on site at any given time. Employees will arrive at the Property in the morning starting at 6:45 a.m. and will leave by 5:00 p.m. Monday through Friday. The Applicant is not proposing weekend hours except in the case of emergencies such as a storm or other similar events. The Applicant will be removing an existing wood chip storage bin along the west side of the Property. The Applicant is requesting variances with the Conditional Use application. There is a requirement for Landscape Contractors to be set back 50 feet from lot lines. The Applicant is utilizing existing outbuildings and gravel parking areas as part of this application and these structures and parking areas are not meeting the required 50-foot setback. The variance requests are discussed further in the variance section under the analysis and findings section.

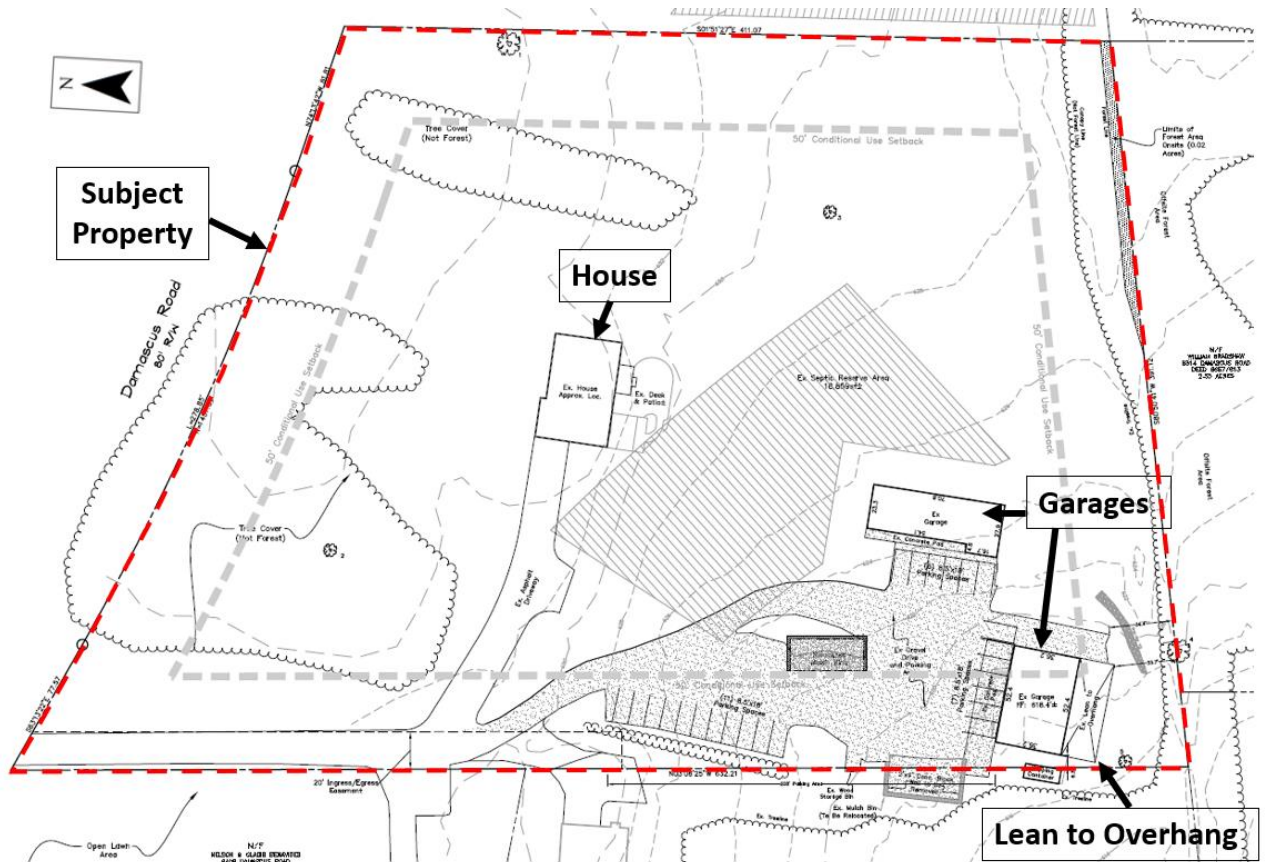


Figure 3: Existing Site Conditions



Figure 4: Vehicles Utilized for the Landscape Contractor

FOREST CONSERVATION

On May 3, 2023, a Forest Conservation Plan Exemption 42023207E under Chapter 22A-5(q)(1) was granted for the Conditional Use (Attachment A). The Application is in compliance with the Environmental Guidelines and all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

SECTION 4: COMMUNITY CORRESPONDENCE

The Property has been properly posted. As of the date of this Staff Report, Staff has not received any letters of correspondence from the community. Staff has received one phone call from an adjacent resident regarding water draining on the property at 6340 Damascus Road. The Applicant is working with the Department of Permitting Services Water Resources Section to remedy this issue.

SECTION 5: ANALYSIS AND FINDINGS

Per Section 59.3.5.5.B.b, where a Landscape Contractor is allowed as a Conditional Use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- 1. In the Agricultural, Rural Residential, and Residential Detached zones the minimum lot area is 2 acres. The Hearing Examiner may require a larger area if warranted by the size and characteristics of the inventory or operation.***

The Property is zoned AR and consists of 4.62 acres.

- 2. Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line.***

The Applicant is proposing to meet the required setbacks in all locations except for an area long the south and west Property lines. The Applicant is seeking a variance (A-6853) from these setback requirements from the Hearing Examiner as depicted in Attachment D and described in the Variance Section of the Staff Report.

- 3. The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on-site must be limited by the Hearing Examiner to avoid an adverse impact on abutting uses. Adequate parking must be provided on-site for the total number of vehicles and trailers permitted.***

The Landscape Contractor operation will be utilizing no more than 12 vehicles including seven stake body trucks, four pick-up trucks and one passenger van. In addition, the employees may park up to 12 personal vehicles onsite. Up to 10 employees will use the company provided passenger van for commuting in the morning and evening. Most other employees will be carpooling so the Applicant does not need the full 12 spaces required by Section 59.6.2.4.B even though the spaces will be provided.

- 4. Sale of plant materials, garden supplies, or equipment is prohibited unless the contracting business is associated with a Nursery (Retail) or Nursery (Wholesale).***

The Applicant is not proposing the sale of any material of supplies on the Property.

- 5. The Hearing Examiner may regulate hours of operation and other on-site operations to avoid adverse impact on abutting uses.***

The Applicant is proposing the hours of operation from 6:45 a.m. through 5:00 p.m. Monday through Friday. The Applicant is not proposing regular weekend hours. The

Applicant will need to operate in the case of emergencies such as storms or other similar events after regular hours and on weekends.

The residential home will remain as a residential use without restriction on its hours, except for the provision of a bathroom for the employees.

1. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:

a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.

There are no previous approvals on the Property.

b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;

i. Use Standards

The proposed Landscape Contractor use satisfies the use standard in Section 59.3.5.5.B.b as stated above. In addition, the residential use is permitted by right for the single-family home.

ii. Development Standards

The Property is in the AR zone, which allows Landscape Contractor as a Conditional Use. The project complies with all the standard method development standards of the AR zone, however the Applicant is requesting variances from development standards found in the Landscape Contractor Conditional Use as shown on the Development Standards Table below.

Table 1: AR Zone- Development and Parking Standards

Development Standard Section 59.4.2.1.F.2	Permitted/ Required	Conditional Use Required Section 59.3.5.5.B.b.2	Existing/ Proposed*
Principal Structure:			
Minimum Lot Area	40,000 sq. ft.	n/a	4.62 acres
Minimum Lot Width at Front Building Line	125 ft.	n/a	>430 ft.
Minimum Lot Width at Front Lot Line	25 ft.	n/a	>400 ft.
Maximum Density	1 dwelling/25 acres	n/a	1 dwelling

Development Standard Section 59.4.2.1.F.2	Permitted/ Required	Conditional Use Required Section 59.3.5.5.B.b.2	Existing/ Proposed*
Maximum Lot Coverage	10%	n/a	3.09%
Minimum Front Setback	50 ft.	50 ft.	230 ft.
Minimum Side Setback (left/right)	20 ft.	50 ft.	230 ft./2.7 ft.**
Minimum Sum of Side Setbacks	40 ft.	n/a	
Minimum Rear Setback	35 ft.	50 ft.	33.7 ft.**
Maximum Height	50 ft.	n/a	25 ft.
Accessory Structure:			
Minimum Side Setback	15 ft.	50 ft.	230 ft./2.7 ft.**
Minimum Rear Setback	15 ft.	50 ft.	33.7 ft.**
Maximum Height	50 ft.	n/a	
Vehicle Parking Requirement (Section 59.6.2.4.B)	2 spaces/ dwelling= 2 spaces 0.50 spaces/ employee= 12 spaces 1 space/ company vehicle= 12 spaces Total Required= 26 spaces		26 spaces

*There is no proposed development with this Application.

**Variances are being requested. See Variance Section below.

iii. **General Requirements –**

(1) Access

Access to the Subject Property is provided via an existing residential driveway on Damascus Road. The Applicant is not proposing any additional entrance points.

(2) Parking, Queuing and Loading

The proposed Landscape Contractor is utilizing the existing parking area for the 12 business vehicles as well as the 12 employee parking spaces that have been in present for the nearly 27 years that the business has been in existence.

(3) Open Space and Recreation

This application is not required to provide Open Space.

(4) Lighting

The Applicant is not proposing any new lighting with this application. The Property will utilize existing residential lighting.

(5) Screening

Per Section 59.7.3.1.B.2.k, landscape plans were not required to be submitted because the Applicant is not proposing any exterior changes or additional parking. However, the Landscape Contractor portion of the Property is surrounded along the east, south and west sides by existing trees and forested areas.

(6) Outdoor Display and Storage

The Applicant will be relocating an existing mulch storage area further into the Property away from neighbors' view. The mulch is used for projects off site on customers' properties. Customers will not be coming to the Property to purchase mulch.

(7) Signage

The Applicant is not proposing any signage but understands signage would require a Sign Permit through the Department of Permitting Services.

c) ***substantially conforms with the recommendations of the applicable master plan;***

The Site is located within the 2005 *Olney Master Plan* area. The Property falls within the Northern Olney Area of the *Master Plan*, which has no recommendations for this specific property to the surrounding area and reconfirms the AR zoning. In the AR Zone, Landscape Contractors are allowed through an approved Conditional Use. The Landscape Contractor use even though not approved by a Special Exception or Conditional Use, has been in existence prior to the adoption of the 2005 *Olney Master Plan*.

d) ***is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan; The proposal is harmonious with, and will not alter the character of, the surrounding neighborhood.***

The existing house is being retained for the primary residence for the Applicant and his family towards the front of the property. The existing Landscape Contractor business is towards the rear of the property away from the road and cannot be seen from Damascus

Road. From Damascus Road the Property appears to be a single-family detached house similar to all the surrounding properties. The Landscape Contractor business will operate in the rear of the Property which is surrounded by existing trees and forested areas to screen the business from the neighboring properties. There is another property in the Staff defined neighborhood with a Landscape Contractor business as a Home Occupation.

- e) ***will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;***

The Subject Property is located in the Agricultural Reserve Zone (AR) and not in a Residential Detached Zone. However, there are no other Special Exceptions or Conditional Uses exist in the neighborhood. The proposed Conditional Use does not alter or adversely affect the residential character of the neighborhood.

- f) ***will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:***
- i. ***if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or***
 - ii. ***if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, and***

A Preliminary Plan of Subdivision is not required, and Staff has determined that there are adequate public services and facilities to serve the proposed use as described below.

Transportation

The Subject Property is located on Damascus Road (MD 650), with an master-planned right-of-way width of 80 feet. Damascus Road is classified as a Country Road on the segment of which the Subject Property is located.

Consistent with the 2021 *Complete Streets Design Guide* and 2018 *Bicycle Master Plan*, the default bikeway type for Damascus Road is bikeable shoulders. However, the Subject Property is exempt from providing pedestrian and bicycle improvements based on Section 49-33(d)(A) of the County Code. According to the Code, residential properties in Road Code Areas identified as rural and totaling more than 25,000 square feet are exempted from constructing sidewalks or any master-planned facilities.

The Subject Property is located in both a Rural Road Code Area and the Agricultural Reserve. The Site is approximately 4.62 acres (~200,000 square feet). The Subject Property is exempted from constructing any bicycle or pedestrian frontage improvements or infrastructure based on the latter. No additional right-of-way dedication is required as the full right-of-way has been achieved.

Local Area Transportation Review

Currently, the Subject Property is staffed by 20 employees, with a maximum of 24 employees at any one time. The Applicant does not anticipate any supplementary staff members. The Subject Property contains no retail sales operations, negating the need for customers to visit the Site. Additionally, all operations occur at offsite locations. Given the negligible weekday and partial weekend activities expected to happen, the Applicant has provided a Transportation Exemption Statement (“TES”).

Based on the trip generation table provided below, the Application generates fewer than 50 new person trips in the morning and evening peak hours. Therefore, the impact on the road network is de minimis and additional analysis under Local Area Transportation Review Guidelines (“LATR”) is not required.

Table 2: Trip Generation for the Proposed Use

Trip Generation Based On Employer Data						
	AM Peak Hour			PM Peak Hour		
Existing Site	In	Out	Total	In	Out	Total
	8	12	20	12	8	20
	AM Peak Hour			PM Peak Hour		
Maximum Person Trips	In	Out	Total	In	Out	Total
Auto Driver	8	12	20	12	8	20
Auto Passenger	6	12	18	12	6	18
Transit	10	0	10	0	10	10
Non-Motorized (Bike)	0	0	0	0	0	0
Total Person Trips (Based on Maximum Person Trips)	24	24	48	24	24	48
ITE Trip Generation						
	AM Peak Hour			PM Peak Hour		

Proposed Use	In	Out	Total	In	Out	Total
ITE Generation Code – 180 (Specialty Trade Contractor)	11	4	15	5	12	17
Total Vehicle Trips Per ITE 11 th Edition	11	4	15	5	12	17
Policy Area Adjustment Factor (Rural East Policy Area – 100%)	11	4	15	5	12	17
	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Auto Driver	11	4	15	5	12	17
Auto Passenger	4	1	5	1	3	4
Transit	0	0	0	0	0	0
Non-Motorized (Bike)	0	0	0	1	1	0
Total Person Trips	15	5	20	7	16	23

*Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR guidelines. Figures are rounded to nearest whole number. Source: Lenhart Traffic Consulting Inc., Local Area Transportation Review – March 16th, 2023

(8) Schools

The Landscape Contractor Conditional Use will not increase the number of kids therefore there is no effect on schools.

(9) Other Public Facilities

The Property is located within water and sewer categories W-6 and S-6. Department of Permitting Services Well & Septic Section has no objections to this application and confirmed one bathroom in the house may be used for the employees without major impact on the existing well or septic. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy in effect at the time that the Application was submitted.

g) will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- i. **the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;**
- ii. **traffic, noise, odors, dust, illumination, or a lack of parking;** or
- iii. **the health, safety, or welfare of neighboring residents, residents, visitors, or employees.**

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects, alone, are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes “undue” harm to the surrounding neighborhood. When analyzing whether impacts are inherent or non-inherent, Staff examines the size, scale, scope, light, noise, traffic and environmental effects of the proposed use. Staff identified the following physical and operational characteristics necessarily associated with a Landscape Contractor use.

- vehicle trips
- employee parking
- noise or odors associated with truck and equipment.

The Landscape Contractor will not be detrimental to surrounding properties and staff has not identified any non-inherent adverse effects associated with the proposed use.

The proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.

The Applicant is not proposing any new construction with this application. All the structures are existing onsite.

3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and is not sufficient to require conditional use approval.

The Applicant understands just because the proposed use meets all the requirements of the Conditional Use, there is not a presumption this use is compatible and is not sufficient to require a conditional use approval. Staff finds the use is compatible with the surrounding neighborhood based on its analysis of the application and the surrounding neighborhood.

- 4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.**

This Section is not applicable to this application.

- 5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:**

- a) Filling Station;**
- b) Light Vehicle Sales and Rental (Outdoor);**
- c) Swimming Pool (Community); and**
- d) the following Recreation and Entertainment Facility use: swimming pool, commercial.**

This Section is not applicable to this application.

- 6. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:**

- a) Funeral Home; Undertaker;**
- b) Hotel, Motel;**
- c) Shooting Range (Outdoor);**
- d) Drive-Thru**
- e) Landfill, Incinerator, or Transfer Station; and**
- f) a Public Use Helipad, Heliport or a Public Use Helistop.**

This Section is not applicable to this application.

VARIANCE REQUESTS

The Applicant is requesting a variance as part of the Conditional Use application. The Zoning Ordinance allows an applicant to apply for a variance for anything within Chapter 59 which may include development standards or standards with a use. The Board of Appeals will typically hear and decide on variances in the county; however, the Board of Appeals may defer the variance hearing to the Hearing Examiner if they choose to do so when also considering a Conditional Use. In this case, the Board of Appeals has deferred the variance hearing to the Hearing Examiner.

1. Per Section 59.3.5.5.B.b, a Landscape Contractor use requires a 50-foot setback on all side for buildings, parking, loading and other site operations. The proposed Landscape Contractor requires the following variances:
 - a. A 15.6-foot variance to allow a 34.4-foot gravel setback along a portion of the southern property line, as shown on the Variance Plan (Attachment D).

Per Section 59.7.3.2.E, Necessary Findings, granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

1. denying the variance would result in no reasonable use of the property; or

2. each of the following apply:

a. one or more of the following unusual or extraordinary situations or conditions exist:

i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

ii. the proposed development uses an existing legal nonconforming property or structure;

iii. the proposed development contains environmentally sensitive features or buffers;

iv. the proposed development contains a historically significant property or structure; or

v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The other existing Landscape Contractor business in the surrounding neighborhood has their business operations up to their property lines which includes the parking areas for equipment. Staff supports this variance because this condition substantially conforms to the character and development pattern of the surrounding neighborhood.

b. the special circumstances or conditions are not the result of actions by the applicant;

c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;

d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and

e. granting the variance will not be adverse to the use and enjoyment of abutting or fronting properties.

- b. A 16.3-foot variance to allow the existing “Lean to Overhang” a 33.7-foot setback along the southern portion of the property line, as shown on the Variance Plan.

Per Section 59.7.3.2.E, Necessary Findings, granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

1. denying the variance would result in no reasonable use of the property; or

2. each of the following apply:

a. one or more of the following unusual or extraordinary situations or conditions exist:

i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

ii. the proposed development uses an existing legal nonconforming property or structure;

iii. the proposed development contains environmentally sensitive features or buffers;

iv. the proposed development contains a historically significant property or structure; or

v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The existing Landscape Contractor as well as most of the homeowners in the surrounding neighborhood have their detached sheds and detached garages within 2 to 5 ft. of their property lines. Staff supports this variance because this condition substantially conforms to the character and development pattern of the surrounding neighborhood.

b. the special circumstances or conditions are not the result of actions by the applicant;

c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;

d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and

e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

- c. A 50-foot variance to allow use of a pre-existing gravel area located along the western property line, as shown on the Variance Plan.

Per Section 59.7.3.2.E, Necessary Findings, granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

1. denying the variance would result in no reasonable use of the property; or

2. each of the following apply:

a. one or more of the following unusual or extraordinary situations or conditions exist:

i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

ii. the proposed development uses an existing legal nonconforming property or structure;

iii. the proposed development contains environmentally sensitive features or buffers;

iv. the proposed development contains a historically significant property or structure; or

v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The other existing Landscape Contractor business in the surrounding neighborhood has their business operations up to their property lines which includes the parking areas for equipment. Staff supports this variance because this condition substantially conforms to the character and development pattern of the surrounding neighborhood.

b. the special circumstances or conditions are not the result of actions by the applicant;

c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;

d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and

e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

- d. A 47.3-foot variance to allow the existing “Lean to Overhang” a 2.7-foot setback along the southern portion of the property line, as shown on the Variance Plan.

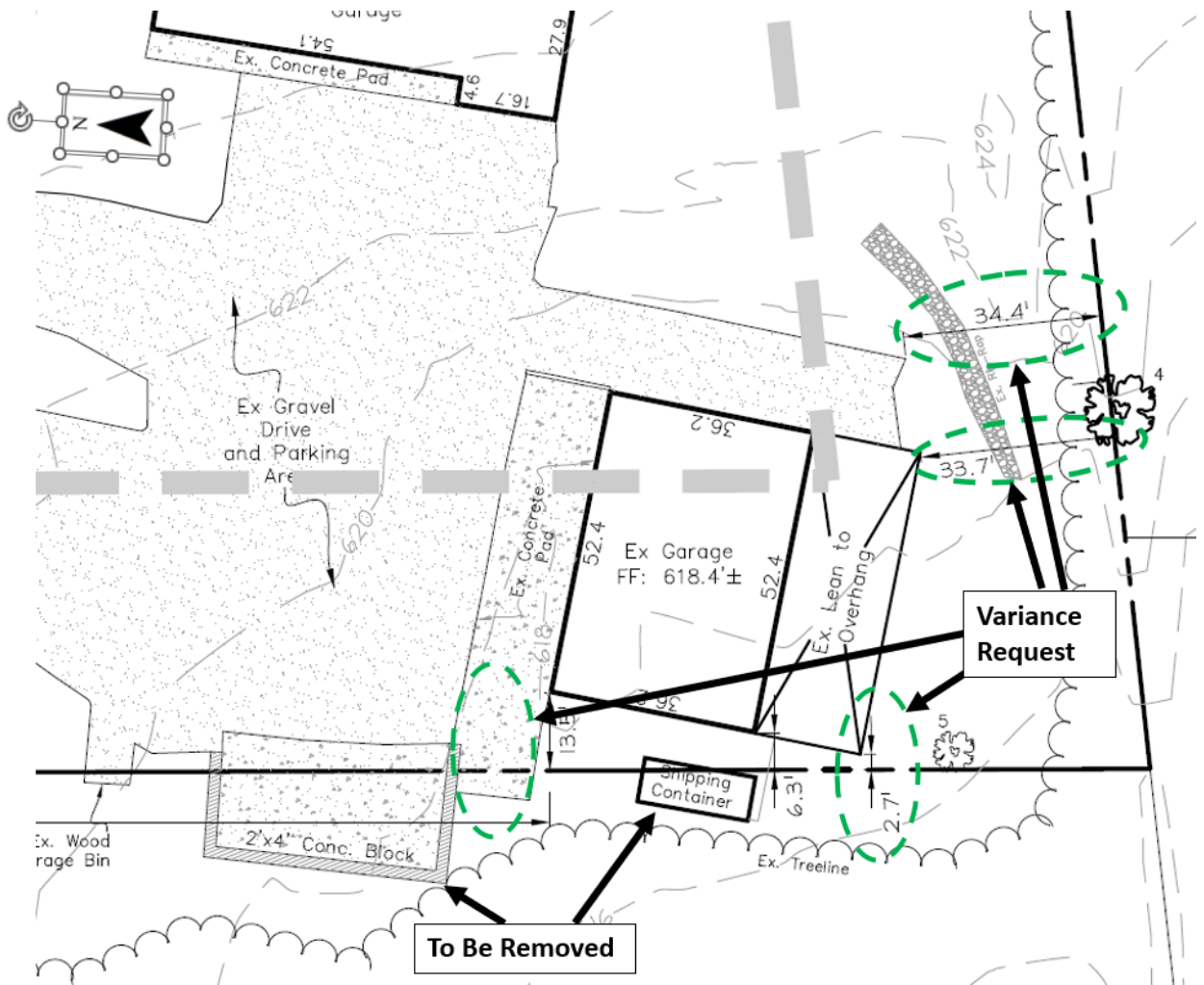


Figure X: Variance Plan for the existing “Lean to Overhang” and parking areas

Per Section 59.7.3.2.E, Necessary Findings, granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

- 1. denying the variance would result in no reasonable use of the property; or**
- 2. each of the following apply:**
 - a. one or more of the following unusual or extraordinary situations or conditions exist:**
 - i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;**

ii. the proposed development uses an existing legal nonconforming property or structure;

iii. the proposed development contains environmentally sensitive features or buffers;

iv. the proposed development contains a historically significant property or structure; or

v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The existing Landscape Contractor as well as most of the homeowners in the surrounding neighborhood have their detached sheds and detached garages within 2 to 5 ft. of their property lines. Staff supports this variance because this condition substantially conforms to the character and development pattern of the surrounding neighborhood.

b. the special circumstances or conditions are not the result of actions by the applicant;

c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;

d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and

e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

FOREST CONSERVATION EXEMPTION

All Forest Conservation Law, Chapter 22A requirements are satisfied.

Consistency with Environmental Guidelines

The Property contains a stream and forested area along the west side of the property.

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Forest Conservation Exemption Plan was confirmed, Plan No 42023207E, on May 3, 2023.

The project is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law), under Section 22A-5(q)(3) a special exception, or conditional use, application if the total disturbance area for the proposed special exception use, or conditional use, will not exceed 10,000 square feet, and clearing will not exceed a total of 5,000 square feet of forest or include any specimen or champion tree.

SECTION 6: CONCLUSION

The proposed conditional use complies with the findings require for approval of a Landscape Contractor, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 2005 *Olney Master Plan* will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner.

ATTACHMENTS

Attachment A: Forest Conservation Exemption

Attachment B: Conditional Use Plan

Attachment C: Variance Plan



Forest Conservation Law Applicability for Conditional Uses/Special Exceptions

Property Information

6412 Damascus Road Gaithersburg, MD
Etchison Acres 19212 4 A CW52 N340
Subdivision Name Plat(s) Lot(s) Block(s) Tax Map Parcel(s)
03045790
Property Tax ID 1 Property Tax ID 2 Property Tax ID 3 Property Tax ID 4

Applicant (Owner, Contract Purchaser, or Owner's Representative)

Jeffrey Juneau American Lawn and Landscape, Inc.
Name Company
6412 Damascus Road
Street Address
Gaithersburg MD 20882
City State Zip Code
jeffreyjuneau67@gmail.com
Email Address

Total Area of Property: 4.62 acres square feet

Applicant attests that the following statements apply to the subject property conditional use/special exception application:

[X] The application does not propose any clearing or grading activities on or near the conditional use/special exception site. (Requires plan number and M-NCPPC signature below)

OR, all of the following:

- The application applies to a property of less than 40,000 square feet.
The property is not subject to a previously approved Forest Conservation Plan.
The conditional use/special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Board.
(Not subject to Forest Conservation Law; requires M-NCPPC signature below)

PLEASE NOTE: If regulated activities occur on the property other than what is being attested to, the exemption immediately terminates without action by the Planning Board. The Planning Director may require the submission and approval of a Natural Resources Inventory/Forest Stand Delineation and a Forest Conservation Plan, and may also issue a fine of up to \$1,000 per day.

Robert Harris 3/16/23
Applicant's Signature Date
ROBERT HARRIS ATTORNEY FOR APPLICANT
Printed Name

For Staff Use Only

M-NCPPC acknowledges that the conditional use/special exception for the above property:

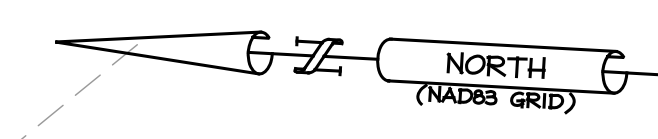
- [X] is exempt from the Forest Conservation Plan requirements under Section 22A-5(q)(1) of the Forest Conservation Law.
[] is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.
Plan Name: 6412 Damascus Road
Plan Number: 4 2023207E

Mariah Clayborne 5/3/2023
M-NCPPC Signature Date
Mariah Clayborne
Printed Name

GENERAL NOTES **Attachment B**

- 1) WATER CATEGORY - 6 SEWER CATEGORY - 6
- 2) BOUNDARY INFORMATION BASED ON PLAT 19212.
- 3) TWO-FOOT CONTOUR DATA BASED ON AVAILABLE MONTGOMERY COUNTY CONTOUR MAPS AND A FIELD RUN TOPOGRAPHIC SURVEY WITHIN THE AREA OF THE EXISTING GARAGES.
- 4) TOTAL LOT AREA: LOT 9 = 4.62 ACRES
- 5) PROPERTY SHOWN ON TAX MAP GW52, LOT 2, ETCHISON ACRES.
- 6) PROPERTY SHOWN ON W59C 200' SHEET 209 NN 09.
- 7) ONSITE SOILS CONSIST OF 2B, SEE SOILS TABLE ON THIS SHEET.
- 8) FLOOD ZONE "X" PER CURRENT F.E.M.A. FIRM MAP.
- 9) LOWER SECTION OF PROPERTY IS LOCATED IN THE HAWLINGS RIVER WATERSHED. UPPER SECTION OF PROPERTY IS LOCATED WITHIN THE UPPER PATUXENT RIVER WATERSHED.
- 10) THIS PROPERTY IS NOT LOCATED WITHIN AN SPA OR PMA.
- 11) THIS PROPERTY IS ZONED AR (AGRICULTURAL).

SEPTIC SYSTEM NOTE
 THE EXISTING EMPLOYEES CURRENTLY UTILIZE THE BATHROOM WITHIN THE EXISTING HOUSE. AS NEEDED, WHEN ARRIVING IN THE MORNING TO THE OFFICE OR UPON RETURN AT THE END OF EACH WORK DAY, THE ESTIMATED WATER USAGE FOR A LANDSCAPE CONTRACTORS OFFICE IS 10 GALLONS/DAY/EMPLOYEE. USING 20 EMPLOYEES, THE TOTAL ADDITIONAL FLOW TO THE SEPTIC SYSTEM IS CALCULATED AS:
 20 EMPLOYEES x 10 GPD/EMPLOYEE= 200 GALLONS PER DAY.
 TO BE CONSERVATIVE, WE HAVE ASSUMED 300 GALLONS PER DAY OF ADDITIONAL FLOW WHICH IS EQUIVALENT TO TWO ADDITIONAL BEDROOMS. PER TABLE 1, FOUND IN SECTION 27A.00.01.07 OF THE MONTGOMERY COUNTY CODE, A 6 BEDROOM HOUSE (UP TO 10 MIN PERC.) WILL NEED A MINIMUM TRENCH LENGTH OF:
 1,410SF/(2X4 TRENCH DEPTH) = 177' X4= 708 LINEAR FEET
 AVAILABLE RESERVE TRENCH LENGTH= 1050 LINEAR FEET
 CAPACITY IS PROVIDED WITH THE EXISTING SEPTIC RESERVE AREA.

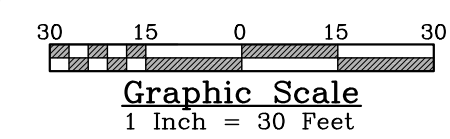
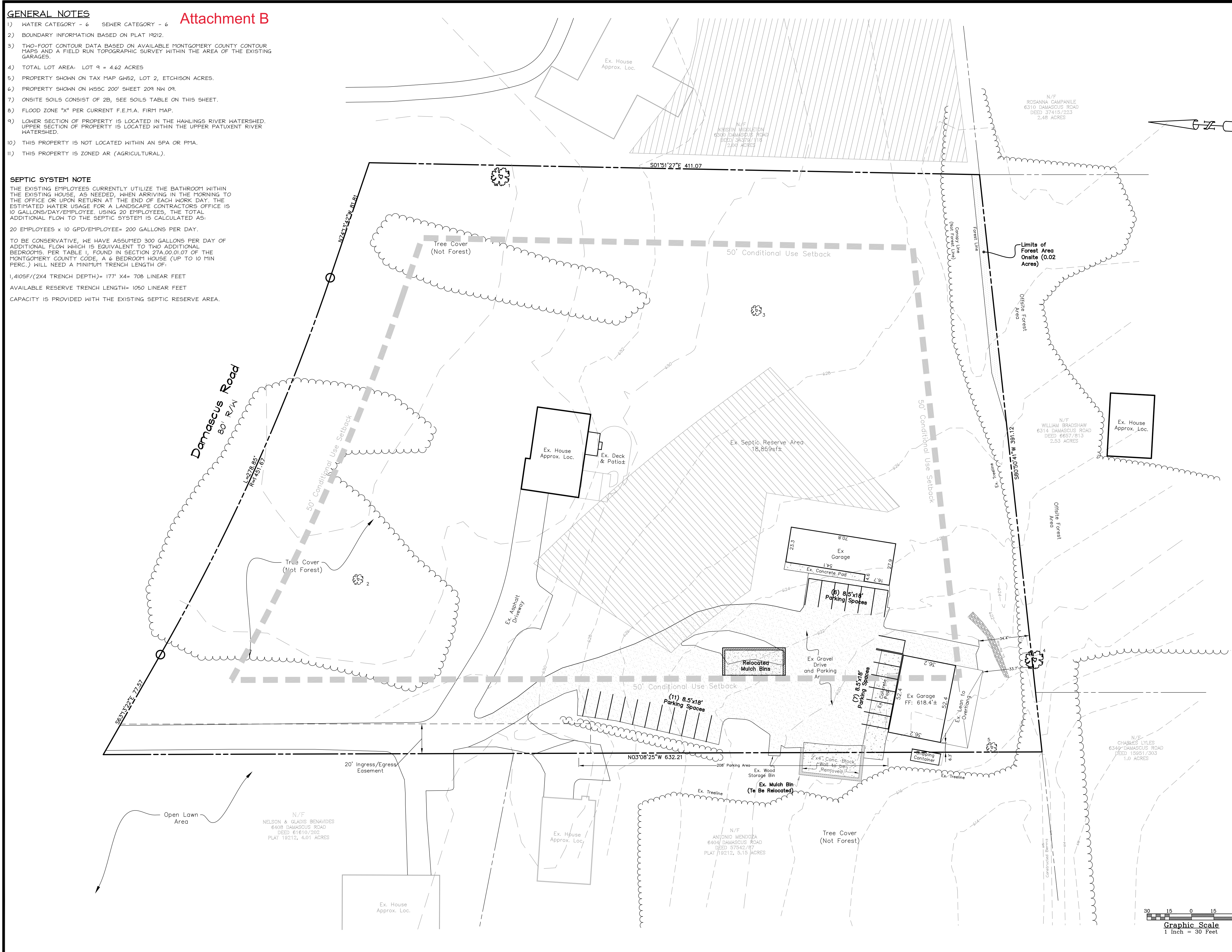
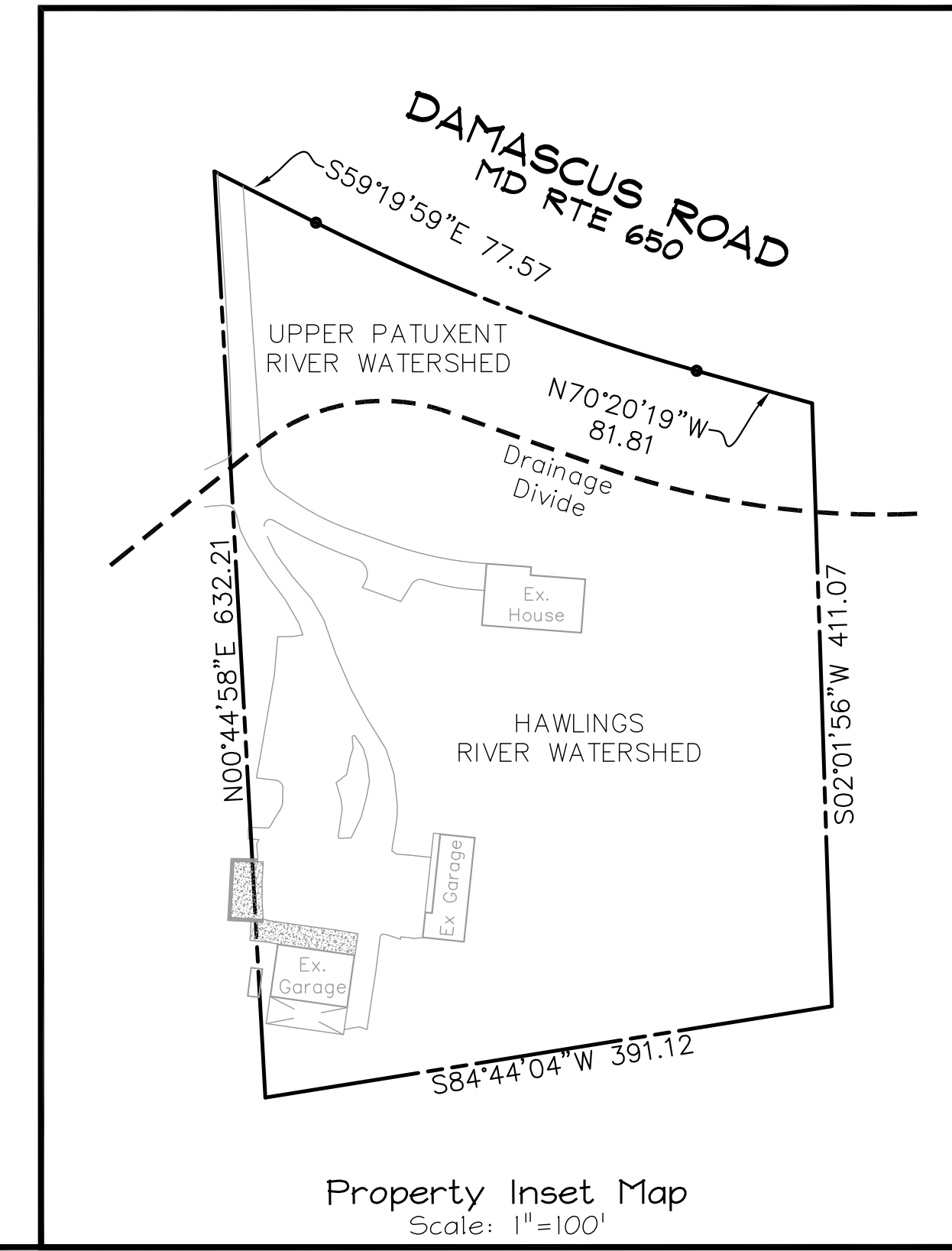


LEGEND

EXISTING CURB & GUTTER	
EXISTING CONTOUR	
EXISTING PROPERTY LINE	
EXISTING EASEMENT	
EXISTING WATER	
EXISTING SEWER	
EXISTING TREELINE	
EXISTING STORMDRAIN	
EXISTING ELECTRIC	
EXISTING UTILITY POLE	
EXISTING SEWER MANHOLE	
EXISTING FIRE HYDRANT	
EXISTING WATER VALVE	
EXISTING SPOT ELEVATION	
EXISTING SIGNIFICANT TREE	
EXISTING SPECIMEN TREE	

SOILS DATA TABLE

SYMBOL	SOIL	HYDRIC	PRIME FARMLAND	HIGHLY ERODIBLE	SERPENTINITE
2B	GLENELG SILT LOAM, 3%-8%	NO	NO	NO	NO



CALL "MISS UTILITY" AT 1-800-257-7777 36 HOURS BEFORE THE START OF ANY CONSTRUCTION ACTIVITIES
 THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDERGROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES.

OWNER / DEVELOPER:
 JEFFREY K. JUNEAU
 6412 DAMASCUS ROAD
 GAITHERSBURG, MARYLAND 20882

JNM ENGINEERING, LLC
 CIVIL ENGINEERING, SURVEYING, LAND PLANNING, ENVIRONMENTAL, ARBORICULTURE, LEED PROFESSIONALS
 1105 LEAFY HOLLOW CIRCLE, MOUNT AIRY, MD 21771
 (301) 514-2808, JNMENGINEERINGLLC.COM

SHEET INDEX

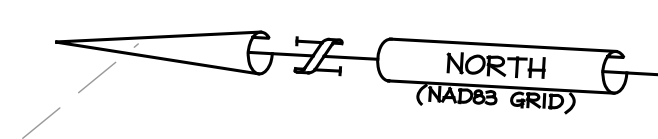
SHEET#	SHEET TITLE

CONDITIONAL USE EXISTING CONDITIONS PLAN
 MONTGOMERY COUNTY, NRI/FSD PLAN 420231610
 LOT 2, PLAT 19212, ETCHISON ACRES
 6412 DAMASCUS ROAD
 TAX MAP GW52, LOT 2, ZONING: AG
 1ST ELECTION DISTRICT, 4.62 ACRES
 GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

DATE: DEC., 2022	SCALE: 1"=30'	SHEET 1 OF 1
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GENERAL NOTES **Attachment C**

- 1) WATER CATEGORY - 6 SEWER CATEGORY - 6
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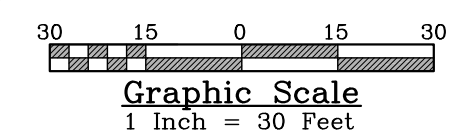
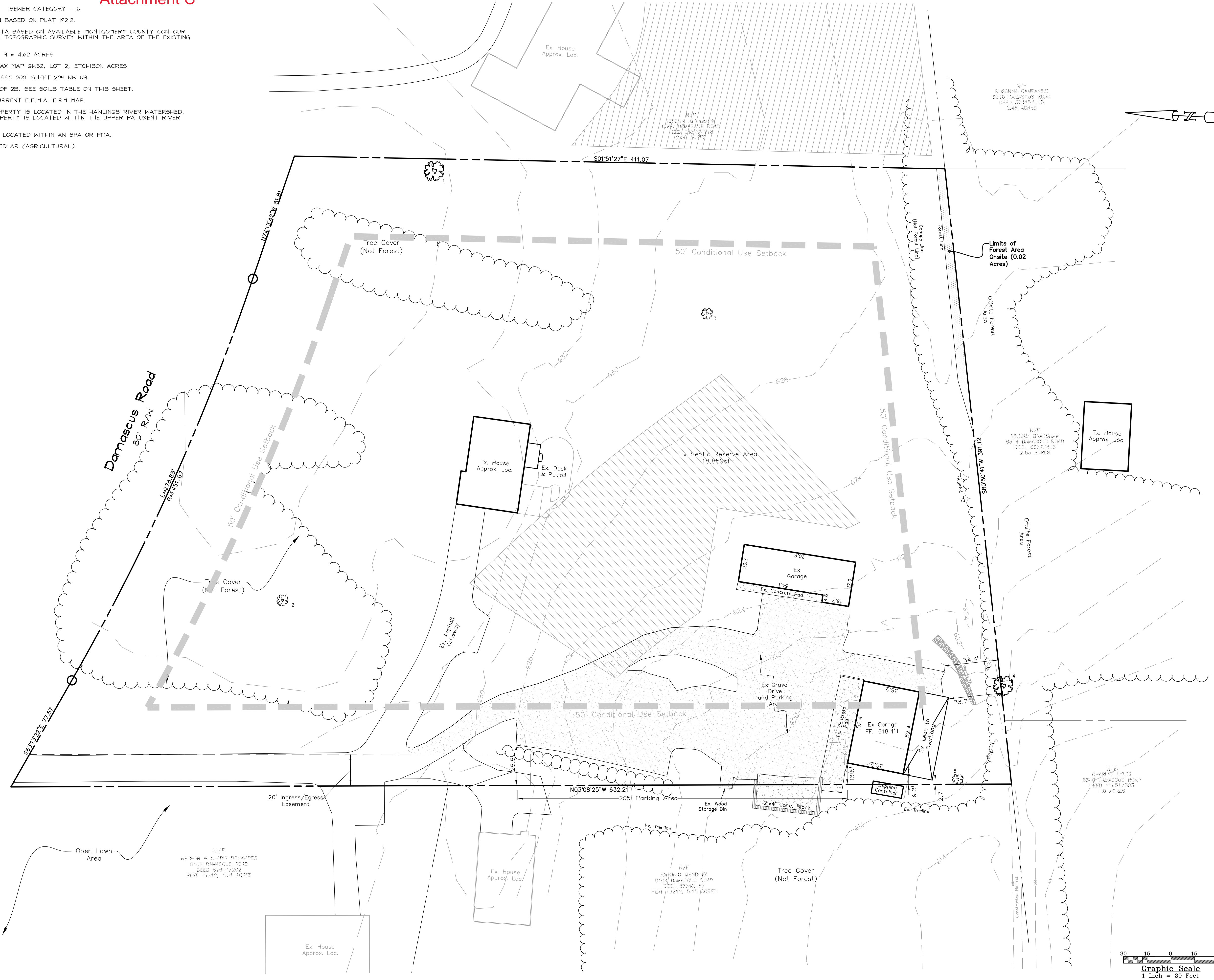
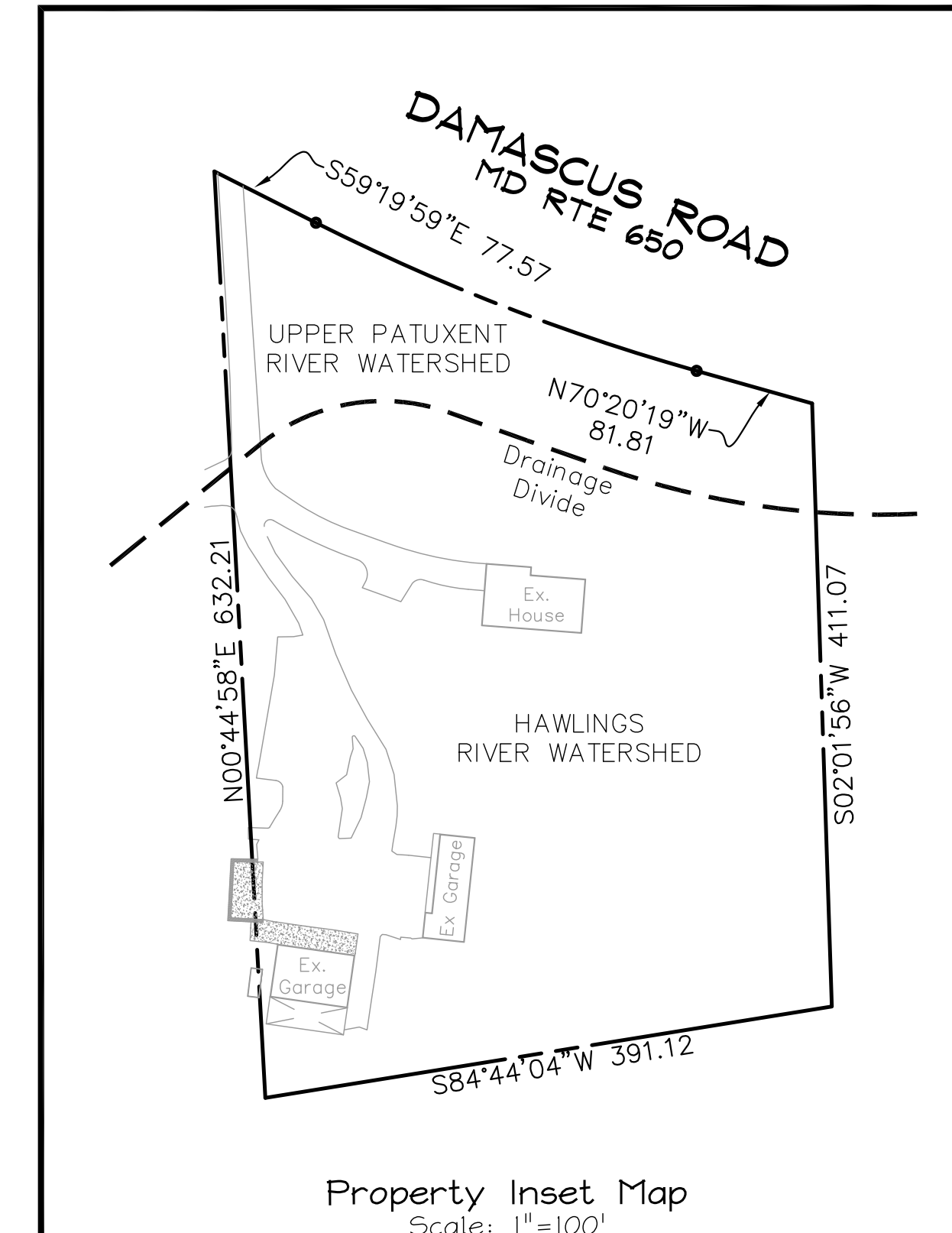
LEGEND

EXISTING FEATURES

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- EXISTING PROPERTY LINE
- EXISTING EASEMENT
- EXISTING WATER
- EXISTING SEWER
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